

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Nos. 310, 322 & 323 MD 2021 (CASES CONSOLIDATED)

SENATOR JAY COSTA, ET AL.,

Petitioners,

v.

SENATOR JACOB CORMAN III, ET AL.,

Respondents.

COMMONWEALTH OF PENNSYLVANIA, ET AL.,

Petitioners,

v.

SENATOR CRIS DUSH, ET AL.,

Respondents.

ARTHUR HAYWOOD, ET AL.,

Petitioners,

v.

LEIGH M. CHAPMAN,

Respondent.

**JURISDICTIONAL BRIEF OF RESPONDENTS SENATOR
JAKE CORMAN, SENATOR CRIS DUSH, AND
INTERGOVERNMENTAL OPERATIONS COMMITTEE**

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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	QUESTIONS PRESENTED BY COURT	4
III.	ARGUMENT	6
	A. These consolidated matters are not ripe for review because the Committee has not yet sought to enforce the Subpoena.	6
	B. The availability of an adequate remedy at law, namely the Committee's enforcement of the Subpoena, precludes the Court's exercise of equity jurisdiction over Petitioners' suits seeking to quash the Subpoena.	13
	C. The Senate's civil and criminal contempt powers also may preclude this Court's exercise of equity jurisdiction over the petitions for review.....	16
IV.	CONCLUSION	22

TABLE OF AUTHORITIES

Cases

<i>Annenberg v. Roberts</i> , 2 A.2d 612 (Pa. 1938)	8
<i>Camiel v. Select Committee on State Contract Practices of the House of Representatives</i> , 324 A.2d 862 (Pa. Cmwlth. 1974)	passim
<i>Cathcart v. Crumlish</i> , 189 A.2d 243 (Pa. 1963)	6, 11, 13, 14
<i>Commonwealth ex rel. Carcaci v. Brandamore</i> , 327 A.2d 1 (Pa. 1974)	5, 18, 19
<i>Commonwealth v. Costello</i> , 1912 WL 3913 (Pa. Quar. Sess. 1912)	21
<i>In re Pennsylvania Crimes Commission</i> , 309 A.2d 401 (Pa. 1973)	6, 9, 10, 11
<i>Wetzel v. Suchanek</i> , 541 A.2d 761 (1988)	16, 17

Statutes

18 Pa.C.S. § 5110	5, 20, 21
46 P.S. § 61	17, 18, 19
Jt. St. Govt. Comm. Comment to 18 Pa.C.S. § 5110	20

Rules

Pa.R.Civ.P. 234.2	16
Pa.R.Civ.P. 234.4	15
Senate Rules 6, 8, 14(d)	16

Constitutional Provisions

Pa. Const. art. I, § 8	8
Pa. Const. art. II, § 11	5, 17, 20

I. INTRODUCTION

On January 25, 2022, this Court ordered the parties to submit briefs addressing three discrete issues concerning the Court's exercise of equity jurisdiction over Petitioners' consolidated petitions for review. As detailed below, all three issues presented by the Court make one thing clear: Petitioners "jumped the gun" by filing their suits in equity prior to the Intergovernmental Operations Committee (the "Committee") seeking to enforce its September 15, 2021 Subpoena, whether through enforcement proceedings in this Court, civil contempt proceedings before the Senate, or criminal contempt proceedings in the Court of Common Pleas. Indeed, each of the three issues compel the same answer: Petitioners' petitions for review should be dismissed for lack of equity jurisdiction.

First, based on binding precedent from this Court and the Pennsylvania Supreme Court, this case is *not* ripe for review unless and until the Committee initiates enforcement proceedings to compel compliance with its Subpoena. This Court's *en banc* decision in *Camiel v. Select Committee on State Contract Practices of the House of Representatives*, 324 A.2d 862, 865-71 (Pa. Cmwlth. 1974), is directly

on-point and controlling with regard to this issue. And *Camiel* mandates the immediate dismissal of this equity action in deference to the Committee's enforcement proceedings at law to be filed with this Court.

Second, and relatedly, the existence and availability of an adequate remedy at law for Petitioners precludes this Court's exercise of equity jurisdiction over this case. Again, Petitioners can, and certainly will, raise the same legal and constitutional challenges to the Subpoena in any enforcement proceedings at law initiated by the Committee in this Court that they have raised in this case in the Court's equity jurisdiction. Thus, Petitioners must wait for the Committee to seek to enforce the Subpoena at law in this Court before they can seek to quash the Subpoena in equity.

Third, and finally, the Senate's constitutional and statutory civil and criminal contempt powers also provide another vehicle at law, in lieu of equity, through which the Secretary of the Commonwealth and/or the Department of State can raise and have adjudicated any legal or constitutional challenges they may have to the Subpoena. If the Senate chooses to pursue civil and/or criminal contempt proceedings

against the Secretary or the Department of State for their noncompliance with the Subpoena, they will again have the availability of another forum at law to object to the Subpoena, rendering this Court's exercise of equity jurisdiction unnecessary.

Accordingly, this Court should refrain from exercising equity jurisdiction over Petitioners' petitions for review and enter an order dismissing all three of the consolidated cases as a matter of law. The Committee can then file a petition for review in this Court to enforce the Subpoena.

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II. QUESTIONS PRESENTED BY COURT

By Order dated January 25, 2022, the Court directed the parties to address the following three issues related to the Court's equity jurisdiction:

1. Whether these matters are ripe for review, in light of the holdings in *In re Pennsylvania Crimes Commission*, 309 A.2d 401, 404-05 (Pa. 1973); *Cathcart v. Crumlish*, 189 A.2d 243, 245-46 (Pa. 1963); and *Camiel v. Select Committee on State Contract Practices of the House of Representatives*, 324 A.2d 862, 865-71 (Pa. Cmwlth. 1974). *Cf. Camiel*, 324 A.2d at 866 (citing *Annenberg v. Roberts*, 2 A.2d 612, 618 (Pa. 1938) (commission subpoena duces tecum that on its face attempted an unlawful search and seizure could be restrained in advance of subpoena's enforcement)).

Suggested Answer: No.

2. Whether the availability of an adequate remedy at law precludes the Court's exercise of equity jurisdiction over a challenge to a legislative subpoena. *See* Pa.R.Civ.P. 234.4 (providing for motion to quash a subpoena, hearing, and protective order); *Cathcart*, 189 A.2d at 245-46; *Lunderstadt v. Pennsylvania House of Representatives Select Committee*, 519 A.2d 408, 410 (Pa. 1986) (motions to quash legislative subpoenas as intrusive and unduly burdensome).

Suggested Answer: Yes.

3. Whether the General Assembly's contempt power¹ or the criminal contempt statute² bear on this Court's jurisdiction over the petitions for review.

Suggested Answer: Yes.

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¹ See Pa. Const. art. II, § 11 ("Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, [and] to enforce obedience to its process...."); *Commonwealth ex rel. Carcaci v. Brandamore*, 327 A.2d 1, 5 (Pa. 1974).

² See 18 Pa.C.S. § 5110 ("A person is guilty of a misdemeanor of the third degree if he . . . neglects or refuses to appear in the presence of either [branch of the General Assembly] after having been duly served with a subpoena to so appear.").

III. ARGUMENT

A. These consolidated matters are not ripe for review because the Committee has not yet sought to enforce the Subpoena.

A review of this Court's holding in *Camiel v. Select Committee on State Contract Practices of the House of Representatives*, 324 A.2d 862, 865-71 (Pa. Cmwlth. 1974), and the Pennsylvania Supreme Court's holdings in *In re Pennsylvania Crimes Commission*, 309 A.2d 401, 404-05 (Pa. 1973), and *Cathcart v. Crumlish*, 189 A.2d 243, 245-46 (Pa. 1963), can lead to only one conclusion: these consolidated petitions for review are *not* ripe for review, specifically because there has been no "confrontation" between the Committee and any of the Petitioners pursuant to which the Committee has sought to enforce the Subpoena. And all three of the above cases clearly support this conclusion.

First, and most directly on-point, in *Camiel*, the chairman of a political party's county executive committee filed, in this Court's original jurisdiction, a petition to quash a subpoena duces tecum served on him by the Select Committee on State Contract Practices of the Pennsylvania House of Representatives. *See* 324 A.2d at 864. Without ever reaching the merits of the chairman's petition, an *en banc* panel of

this Court dismissed the petition to quash subpoena as unripe. *Id.* at 865. Specifically, the *Camiel* Court held that “this case does not yet present a justiciable issue” and “is not ripe for a decision on the merits” because there had been no “confrontation” between the House Select Committee and the county party committee chairman on the issue of enforcing the subpoena. *Id.* at 865-66. In so holding, the *Camiel* Court explained that, for instance, “[t]he subpoena could be withdrawn before any hearing,” or “the Select Committee may be willing to accept those records which Camiel and the Democratic County Executive Committee of Philadelphia may be willing to submit.” *Id.* at 866. Moreover, the Court explained that “the Select Committee could decide not to force the issue or even to seek a contempt citation.”³ Accordingly, “absent a confrontation” and a fully-established record before the House Committee “showing the factual posture of the matter,” the *Camiel* Court held that it would be “improper” for the Court to entertain the

³ Notably, in discussing the possibility of the House Select Committee seeking a “contempt citation” against the county party committee chairman, the *Camiel* Court specifically recognized: “Camiel may raise constitutional questions there, on which the Select Committee may rule in his favor, thereby eliminating any problems.” 324 A.2d at 866.

case or “dispose of all the potential constitutional issues which might be raised in this case.”⁴ 324 A.2d at 870.

Camiel, which is factually analogous to this case, is both instructive and controlling. Indeed, here, as in *Camiel*, Petitioners’ consolidated petitions for review are *not* ripe for judicial determination on the merits because there has been no attempt made yet by the Committee to enforce the Subpoena in this Court or to seek a contempt citation internally against the Secretary of the Commonwealth or the Department of State for failing to comply with the Subpoena. As in *Camiel*, until there is such a “confrontation” between the Committee and Petitioners, “this case does not yet present a justiciable issue and therefore is not ripe for a decision on the merits.” 324 A.2d at 865.

⁴ The *Camiel* Court cites *Annenberg v. Roberts*, 2 A.2d 612 (Pa. 1938), for the general proposition that “a court sitting in equity may restrain public officers to protect a citizen’s constitutional rights after service of a subpoena and before a confrontation[.]” 324 A.2d at 866. But, *Annenberg* is easily distinguishable from the present case because, in *Annenberg*, unlike here, the subpoenas contemplated an unconstitutional search and seizure and, therefore, they were void “on their face.” 2 A.2d at 618. In this case, the Subpoena at issue is not facially void, nor is it facially unconstitutional. Indeed, the Subpoena does not compromise the right to privacy under Article I, Section 8 of the Pennsylvania Constitution as Petitioners allege because there is no reasonable expectation of privacy in the information sought in this context. Moreover, the legislative subpoenas in *Annenberg* were directed to individual persons implicated in potential criminal wrongdoing. Here, the Committee issued the Subpoena to a state agency for the purpose of investigating areas of legislation, and the information it seeks is not about criminal wrongdoing by a particular person warranting a higher probable cause standard.

Moreover, to the extent that Petitioners allege any constitutional violations, *Camiel* instructs that “[c]ourts should not decide a citizen’s constitutional rights in a vacuum” and, therefore, it would be “improper” for the Court to entertain those constitutional issues prior to the Committee seeking to enforce the Subpoena in this Court and creating a more complete and thorough record through those enforcement proceedings. *Id.* at 870.

Second, in *Crimes Commission*, a number of current and former police officers of the Philadelphia Police Department brought an action in equity in the Court of Common Pleas of Philadelphia County seeking to quash a subpoena issued by the Pennsylvania Crimes Commission upon the Philadelphia Police Commissioner related to allegations of corruption within the Department. 309 A.2d at 403. In response to that lawsuit, the Crimes Commission filed a separate lawsuit in this Court seeking to enforce its subpoena. *See id.* After this Court entered an order enforcing the subpoena, the police officers appealed to the Supreme Court and argued, among other things, that this Court lacked jurisdiction over the Commission’s enforcement lawsuit, given their initial lawsuit filed in Philadelphia County in equity seeking to quash

the subpoena. *Id.* at 404. In rejecting this jurisdictional argument, the Supreme Court specifically held that the motion to quash lawsuit filed by the police officers in Philadelphia County was *not* ripe because the Crimes Commission had not yet sought to enforce the subpoena. *Id.* In so holding, the Supreme Court explained: “To hold otherwise would be to ignore the obvious possibility that the Commission may elect not to enforce its subpoena.” *Id.* The Court further explained that “the premature initiation of equitable proceedings” by the police officers was “in effect a nullity” and “incapable of divesting the Commission of its legal right to elect to proceed to seek enforcement in the forum of its choice.” 309 A.2d at 404-05. Accordingly, the Supreme Court concluded that jurisdiction was proper in this Court (as opposed to Philadelphia County) because the Commonwealth Court is where the Commission elected to proceed to seek enforcement of its subpoena.

Here, as in *Crimes Commission*, Petitioners’ suits in equity are similarly *not* ripe for review. Indeed, “[u]ntil the [Committee] invokes the aid of a court to enforce compliance with its [S]ubpoena[], the [C]ourt is without jurisdiction in the matter.” 309 A.2d at 404. Here, as in *Crimes Commission*, “[t]he premature initiation of equitable

proceedings by the [Petitioners] is in effect a nullity” until the decision is made by the Committee to seek enforcement of its subpoena in this Court via a petition for review (which it has not yet done).⁵ *Id.*

Third, and finally, in *Cathcart*, which is cited by *Crimes Commission*, certain witnesses filed a suit in equity seeking to enjoin the District Attorney of Philadelphia from requiring them to appear and testify as part of an investigation he was conducting. 189 A.2d at 244. The lower court dismissed the equity action, and the witnesses appealed. *See id.* The Supreme Court affirmed the dismissal, holding that the matter was *not* ripe for review because the District Attorney had not sought to enforce the subpoena in the Court of Common Pleas as provided for under the Philadelphia Home Rule Charter. *Id.* at 245. As the Supreme Court explained, the witnesses could not “question the validity of the subpoena” until the District Attorney invoked the enforcement procedures under the Charter and “called them before the common pleas court.” *Id.* at 245. Until that time, the Court concluded that the court below lacked “equitable jurisdiction.” *Id.*

⁵ Notably, similar to this case, the police officers in *Crimes Commission* also were seeking to enjoin the production of alleged personal and confidential records, including names, addresses, and badge numbers. 309 A.2d at 405.

Again, here, as in *Cathcart*, Petitioners' suits in equity are similarly *not* ripe for review. Indeed, until the Committee invokes the aid of this Court to enforce compliance with its Subpoena via a petition for review, Petitioners "cannot question the validity" of the Subpoena and this Court is without "equitable jurisdiction" to hear the matter.⁶ See 189 A.2d at 245.

Accordingly, in light of the holdings in *Camel, Crimes Commission* and *Cathcart*, Petitioners' consolidated petitions for review in the nature of suits in equity are *not* ripe for review; therefore, they should be dismissed by this Court as a matter of law for lack of jurisdiction. At that point, the Committee will be free, if it so chooses, to file a petition for review in this Court to enforce its Subpoena.

⁶ To the extent that Petitioners may contend that *Crimes Commission* and *Cathcart* are potentially distinguishable because the parties involved in those cases did not independently have the power to enforce compliance with their subpoenas absent court intervention, such a contention is of no moment. Although, as discussed *infra* at Section III.C, the Senate does have civil and criminal contempt powers at its disposal to seek enforcement of the Subpoena, it has not utilized or exercised them in order to do so. Thus, until it does (if ever), these matters remain unripe for review unless and until the Committee seeks to enforce its Subpoena via petition for review in this Court.

B. The availability of an adequate remedy at law, namely the Committee's enforcement of the Subpoena, precludes the Court's exercise of equity jurisdiction over Petitioners' suits seeking to quash the Subpoena.

Petitioners' consolidated petitions for review in the nature of suits in equity should also be dismissed as a matter of law because of the availability of an adequate remedy at law. Specifically, the availability of Petitioners to contest and challenge the Subpoena at law in the context of enforcement proceedings brought by the Committee in this Court precludes this Court's exercise of equity jurisdiction over Petitioners' petitions for review seeking to quash the Subpoena.

On this issue, the Pennsylvania Supreme Court's decision in *Cathcart*, discussed *supra*, is instructive. In *Cathcart*, the Supreme Court specifically held that: "Equity jurisdiction is also divested because of the presence of an *adequate* remedy at law." 189 A.2d at 245 (emphasis in original). To this end, the Court explained that the subpoenaed witnesses would "suffer no irreparable harm, or for that matter any harm at all, if they have to wait until the district attorney invokes the enforcement procedures before they can contest the subpoena." *Id.*

Here, as in *Cathcart*, the same adequate remedy at law exists for Petitioners. As in *Cathcart*, Petitioners can and must wait for the Committee to enforce the Subpoena via a petition for review in this Court before they can contest the Subpoena. 189 A.2d at 245. And, in doing so, Petitioners will suffer no irreparable harm because Petitioners can, and certainly will, raise the same arguments to quash the Subpoena in any enforcement proceedings at law as they are currently raising in their consolidated petitions for review in this Court's equity jurisdiction.⁷

Moreover, as this Court recognized in *Camiel*, discussed *supra*, the judicial branch of government should be loath to exercise its equity jurisdiction over motions to quash legislative subpoenas. 324 A.2d at 865. In *Camiel*, this Court specifically stated: "We have grave reservations concerning the jurisdiction of this Court to entertain a petition to quash a subpoena issued by a Select Committee of the House

⁷ To the extent that Petitioners may contend that an "adequate remedy at law" does not exist because they *may* be subject to civil and/or criminal contempt as discussed *infra* at Section III.C, such a contention again ignores the fact that the Senate has not sought to utilize or exercise its contempt powers with regard to enforcement of the Subpoena. Thus, until it does (if ever), contesting the validity of the Subpoena in enforcement proceedings brought by the Committee in this Court remains a more than adequate remedy at law.

of Representatives of our General Assembly before a citizen's constitutional rights are actually affected." *Id.* The *Camiel* Court explained that: "If there is any one principle of constitutional law which supports and protects our form of government, including all of our constitutional rights, it is the separation of powers among the three branches of government. Every crack in this foundation weakens the entire structure." *Id.*

Here, as in *Camiel*, Petitioners are again asking this Court "to interfere with the legislative process" and quash the Committee's validly issued Subpoena. 324 A.2d at 866. But, as in *Camiel*, this Court must first question whether it has equity jurisdiction over the case, which it does not unless and until the Committee seeks enforcement of the Subpoena at law in this Court via a petition for review. *See id.* It is in those enforcement proceedings at law where Petitioners can and should raise their legal and constitutional challenges to the Subpoena. Accordingly, the Court should dismiss Petitioners' consolidated petitions for review for lack of equity jurisdiction.⁸

⁸ To the extent that Petitioners may point to Pa.R.Civ.P. 234.4 as providing for the procedure to quash a subpoena or seek a protective order following a hearing, this Rule (and the other Rules of Civil Procedure) are wholly inapplicable to legislative subpoenas. Indeed, the Rules of Civil Procedure apply to subpoenas

C. The Senate’s civil and criminal contempt powers also may preclude this Court’s exercise of equity jurisdiction over the petitions for review.

As set forth above, because the Committee has not yet sought to enforce the Subpoena through enforcement proceedings in this Court, the Court is precluded from exercising its equity jurisdiction over Petitioners’ petitions for review seeking to quash the Subpoena. In addition to enforcement proceedings in this Court, the Senate has two other constitutional and statutory enforcement mechanisms at law at its disposal—civil contempt and criminal contempt—both of which also may preclude this Court’s exercise of equity jurisdiction over the petitions for review if pursued by the Senate. Indeed, both civil and criminal contempt proceedings at law, if pursued by the Senate, also would more than adequately provide the Secretary and/or the Department of State with the opportunity to raise and adjudicate any legal or constitutional challenges they may have to the Subpoena.⁹

issued by the courts, and not to legislative subpoenas. *See* Pa.R.Civ.P. 234.2 (“[u]pon the request of a party, the prothonotary shall issue a subpoena signed and under the seal of the court”). The Committee’s subpoenas are governed by the Senate’s Rules, not the Rules of Civil Procedure. *See* Senate Rules 6, 8, 14(d).

⁹ The Pennsylvania Superior Court explained the difference between civil and criminal contempt in the context of judicial proceedings in *Wetzel v. Suchanek*, 541 A.2d 761 (1988), stating:

First, and most importantly, the Senate can, and may if it so chooses, pursue civil contempt against the Secretary of the Commonwealth and/or the Department of State in order to enforce compliance with its lawful Subpoena and to compensate the Senate for its time and resources in having to seek enforcement. Article II, Section 11 of the Pennsylvania Constitution expressly provides that: “*Each House shall have power to determine the rules of its proceedings and punish its members or other persons for contempt or disorderly behavior in its presence, [and] to enforce obedience to its process....*” Pa. Const. art. II, § 11 (emphasis added). In addition, 46 P.S. § 61, which governs the Senate’s “power to issue subpoenas, compel attendance, and commit [persons] to prison,” expressly provides: “Each branch of the legislature shall have the power to issue their subpoena . . . compel the attendance

Civil contempt has as its dominant purpose to enforce compliance with an order of court for the benefit of the party in whose favor the order runs, while criminal contempt has as its dominant purpose, the vindication of the dignity and authority of the court and the protection of the interest of the general public. This distinction between civil and criminal contempt is important because the type of contempt being punished will determine the manner in which the contempt is to be adjudicated as well as the punishment which may be imposed. It must be noted that the characteristic that distinguishes civil from criminal contempt is the ability of the contemnor to purge himself of civil contempt by complying with the court’s directive.

Id. at 763 (internal citations omitted).

of all persons summoned as witnesses,” and for any person’s “refus[al] to render an answer to all legal questions duly propounded . . . *shall have full power* by the direction of the said house *to issue to the sergeant-at-arms a warrant of commitment to the prison of Dauphin county*” of any such person. *Id.* (emphasis added).

Here, pursuant to its clear and unequivocal constitutional and statutory authority, the Senate may, if it so chooses, proceed on a Resolution for Civil Contempt against the Secretary and/or the Department of State for their failure to comply with the Subpoena. It is within these civil contempt proceedings at law that the Secretary and/or the Department of State would have the opportunity to raise and be heard on any legal or constitutional challenges they may have to the Subpoena.

The Pennsylvania Supreme Court’s decision on the General Assembly’s civil contempt authority in *Com. ex rel. Carcaci v. Brandamore*, 327 A.2d 1 (Pa. 1974), is instructive here. In *Carcaci*, a State Police Trooper refused to answer questions before a House Committee and, therefore, he was found to be in civil contempt by the House and imprisoned. *Id.* at 2. The Trooper appealed his incarceration,

challenging the procedure by which he was found in civil contempt by the House and specifically alleging that “any such finding of contempt must be made in a judicial forum.” *Id.* at 4. The Supreme Court rejected this argument as being “without merit,” and explained: “The power of the Houses of the General Assembly to vindicate their authority and processes by punishing acts of contempt committed in their presence is inherent in the legislative function.” *Id.* Relying on 46 P.S. § 61, the Supreme Court concluded: “The House of Representatives followed the procedure of this statute in the instant case, and was entirely correct in so doing.” *Id.*

Here, as the House did in *Carcaci*, the Senate could decide to pursue a finding of civil contempt for the Secretary’s and the Department of State’s non-compliance with the Committee’s Subpoena. And, such civil contempt proceedings at law, in which the Secretary and/or the Department of State can raise their legal or constitutional challenges to the Subpoena, as the Trooper did in *Carcaci*, deprive this Court of equity of jurisdiction over Petitioners’ petitions for review. *See* 327 A.2d at 4 (rejecting Trooper’s constitutional challenges to legislative subpoena in context of civil contempt proceedings at law and holding

that Trooper was given full opportunity within civil contempt proceedings at law to justify his failure to comply with House subpoena).

Second, the Senate may, if it so chooses, pursue criminal contempt against the Secretary of the Commonwealth and/or the Department of State for their non-compliance with the Subpoena.¹⁰ Section 5110 of the Crimes Code provides that: “A person is guilty of a misdemeanor of the third degree if he . . . neglects or refuses to appear in the presence of [the Senate] after having been duly served with a subpoena to so appear.” 18 Pa.C.S. § 5110.¹¹

Here, the Secretary and the Department of State have not complied with the Subpoena and the Senate has acquiesced to this non-compliance while this case is being litigated. Nonetheless, the Senate could, at any time, revoke its acquiescence to this non-compliance and

¹⁰ Notably, Article II, Section 11 of the Pennsylvania Constitution provides that “punishment for contempt or disorderly behavior shall not bar an indictment for the same offense.” Pa. Const. art. II, § 11. Thus, the Senate has the authority to pursue civil contempt, criminal contempt, or both for the same noncompliance with a legislative subpoena.

¹¹ “This section is derived from Article II, Section 11 of the Pennsylvania Constitution, which authorizes each House to punish ‘persons for contempt or disorderly behavior in its presence....’” Jt. St. Govt. Comm. Comment to 18 Pa.C.S. § 5110 (quoting Pa. Const. art. II, § 11).

proceed on a Resolution for Criminal Contempt against the Secretary and/or the Department of State for their failure to comply with the Subpoena.¹² As with any civil contempt proceedings at law, the initiation of criminal contempt proceedings at law by the Senate, if it so chooses, also would deprive this Court of equity jurisdiction over the pending petitions for review. Indeed, as with any civil contempt proceedings at law, the Secretary and/or the Department of State will have the opportunity to raise and be heard on any legal or constitutional challenges to the Subpoena in the context of criminal contempt proceedings at law, thereby divesting this Court of equity of jurisdiction. *See Commonwealth v. Costello*, 1912 WL 3913, at *5 (Pa. Quar. Sess. 1912) (dismissing indictment of witness who refused to testify before Senate committee based on legal challenges raised by witness to subpoena in context of criminal contempt proceedings at law brought under 18 Pa.C.S. § 5110).

¹² It should be noted that, unlike civil contempt proceedings, a person charged with criminal contempt is not given the opportunity to purge or remove the finding of contempt by complying with the subpoena in order to be released from incarceration.

IV. CONCLUSION

Based on the foregoing, it is clear that the consolidated petitions for review in the nature of suits in equity filed by Petitioners were premature, untimely, and without jurisdiction. Because the Committee has not yet sought to enforce the Subpoena in this Court, Petitioners' petitions for review are unquestionably *not* ripe for review. Likewise, because Petitioners can raise their legal and constitutional challenges to the Subpoena in the context of enforcement proceedings at law initiated by the Committee in this Court, an adequate remedy at law exists to preclude this Court's exercise of equity jurisdiction over this case. Finally, because the Secretary and/or the Department of State also could raise their legal and constitutional challenges to the Subpoena in the context of civil and/or criminal contempt proceedings at law initiated by the Senate (if it so chooses), this Court is similarly precluded from exercising equity jurisdiction over this case.

Accordingly, this Court should dismiss all three of the petitions for review for lack of equity jurisdiction as a matter of law in order to allow the Committee to pursue its own enforcement proceedings in this Court.

Respectfully submitted,

Dated: February 15, 2022

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WORD COUNT CERTIFICATION

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Dated: February 15, 2022

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